



NOTICE OF RULE MAKING – Proposed Rules #10-25

The Washington State Liquor Control Board would like your input on the attached proposed rules on **WAC 314-44 Licensed Agents**.

This notice contains a summary of changes being proposed as well as the actual text of the proposed rules. You can provide input by submitting written comments or by participating in the public hearing (see below).

This rule making is filed with the Office of the Code Reviser in the Washington State Register number # 10-17-045.

Why is rule making necessary?

As part of the Board's ongoing regulatory improvement efforts, this chapter of rules is being reviewed for relevance, clarity, and accuracy.

The Liquor Control Board encourages you to give input on rules for **Licensed Agents**. The agency will hold at least one public hearing before rules are adopted.

This notice can be found at <http://www.liq.wa.gov/laws.asp> under Proposed Rules.

Public Comment

You may attend the public hearing listed below, or forward your comments to the Board by mail, e-mail, or fax by **September 22, 2010**.

By mail: Rules Coordinator
Liquor Control Board
P.O. Box 43080
Olympia, WA 98504-3080

By e-mail:
rules@liq.wa.gov

By fax:
360-664-9689

Proposed Rules

AMENDATORY SECTION (Amending WSR 98-18-097, filed 9/2/98, effective 10/3/98)

WAC 314-44-005 Agent's license required--Eligible employers defined--Certain classes limited--Bona fide entity defined--Prohibited practices. (1) No person shall canvass for, solicit, receive or take orders for the purchase or sale of any liquor, or act as the agent for the purchase or sale of liquor, nor contact any licensees of the board in goodwill activities, unless such person is holder of an agent's license (~~(as provided in RCW 66.24.310, and this regulation)~~).

(2) An agent's license may be issued to the accredited representative of a person, firm, or corporation holding:

(a) A certificate of approval (~~(issued pursuant to RCW 66.24.270 or 66.24.206)~~);

(b) A beer distributor's license((~~τ~~));

(c) A brewer's license((~~τ~~));

(d) A beer importer's license((~~τ~~));

(e) A domestic winery license((~~τ~~));

(f) A wine importer's license((~~τ~~));

(g) Or a wine distributor's license within the state of Washington((~~τ~~));

(h) Or the accredited representative of a distiller, manufacturer, importer, or distributor of spirituous liquor,

domestic produced beer or wine, or foreign produced beer or wine.

(3) A person, firm, or corporation so qualified, is ~~((herein defined to be))~~ an eligible employer. ~~((Such))~~ An eligible employer shall apply to the board for such an agent's license for his accredited representatives on application forms prescribed and furnished by the board.

~~((+3+))~~ (4) Every firm which applies for an agent's license under the provisions of this section shall furnish the board with satisfactory proof that such firm is in fact a bona fide business entity.

~~((+4+))~~ (5) Only the licensed agent of a distiller, manufacturer, importer, or distributor of spirituous liquor may contact retail licensees in goodwill activities when such contacts pertain to spirituous liquor products.

~~((+5+))~~ (6) No distiller, manufacturer, importer, distributor of liquor, or agent thereof, shall solicit either in person, by mail or otherwise, any liquor vendor or employee of the board, except the purchasing agent thereof, for the purpose or with the intent of furthering the sale of a particular brand or brands of merchandise as against another brand or brands of merchandise.

~~((+6+))~~ (7) No distiller, manufacturer, importer, distributor of liquor, or agent thereof, shall visit any state liquor store or agency for the purpose of exerting influence on employees for sales promotion or to secure information regarding inventory or any other matter relating to sales. They may

deliver, or have delivered, and assemble where required, consumer offers and display material that have been approved by the board or its designee. Violation of this section will result in a penalty against all company items, which in appropriate cases could mean a partial or total delisting of those items.

~~((7))~~ (8) No distiller, manufacturer, importer, or distributor of liquor, or agent thereof, shall give or offer to any employee of the board any entertainment, gratuity or other consideration for the purpose of inducing or promoting the sale of merchandise.

~~((8))~~ (9) No distiller, manufacturer, importer, or distributor, or agent thereof, shall allow, pay or rebate, directly or indirectly, any cash or merchandise to any retail licensee to induce or promote the sale of liquor, including the payment of tips to such licensees or their employees and the purchasing of drinks "for the house." Such persons, firms and licensees must operate in conformity with WAC 314-12-140, RCW 66.28.010, 66.28.040, and other applicable laws and rules.

~~((9))~~ (10) Upon the infraction of any law or regulation by any distiller, manufacturer, importer, distributor, or agent, the board may, in addition to imposing other penalties as prescribed by law, remove such firm's products from the sales list of the board, and/or prohibit the sale of any brand or brands of beer or wine involved as provided in RCW 66.28.030.

~~((10))~~ (11) Upon the termination of the employment of a licensed agent, his employer shall immediately notify the board

and with such notice return to the board the agent's license issued to such person.

[Statutory Authority: RCW 66.08.030, 15.88.030, 19.126.020, 66.04.010, 66.08.180, 66.16.100, 66.20.010, 66.20.300, 66.20.310, 66.24.150, 66.24.170, 66.24.185, 66.24.200, 66.24.206, 66.24.210, 66.24.230, 66.24.240, 66.24.244, 66.24.250, 66.24.375, 66.24.380, 66.24.395, 66.24.400, 66.24.420, 66.24.425, 66.24.440, 66.24.450, 66.24.455, 66.24.495, 66.24.540, 66.28.010, 66.28.040, 66.28.050, 66.28.170, 66.28.180, 66.28.190, 66.28.200, 66.28.310, 66.44.190, 66.44.310, 66.98.060 and 82.08.150. 98-18-097, § 314-44-005, filed 9/2/98, effective 10/3/98. Statutory Authority: RCW 66.08.030. 89-01-004 (Order 271, Resolution No. 280), § 314-44-005, filed 12/8/88. Statutory Authority: RCW 66.08.030 and 66.98.070. 82-04-029 (Order 93, Resolution No. 102), § 314-44-005, filed 1/27/82; Order 46, § 314-44-005, Rule 111, filed 6/9/76. Formerly WAC 314-44-010 and 314-44-020.]

NEW SECTION

WAC 314-44-011 Who needs an agent's license? (1) Sole proprietors:

- (a) The sole proprietor does not need an agent's license;
- (b) Any employee of a sole proprietor who calls or e-mails their appointed distributor does not need an agent's license;
- (c) Any employee of a sole proprietor who calls, visits, or e-mails retailers needs an agent's license.

(2) Partnerships, limited liability companies, corporations, and their employees: Licensees and their employees who call, e-mail, take orders, pour or visit businesses with a liquor license need an agent's license.

(3) Out-of-state certificate of approval holders: If the out-of-state certificate of approval holder has an endorsement to ship directly to retailers and call or e-mail retailers, they need an agent's license (unless they are a sole proprietor).

(4) Wine shipper to consumer: A wine shipper to consumer does not need an agent's license.